EDMUND G. BROWN JR. Attorney General of California 2 GLORIA A. BARRIOS Supervising Deputy Attorney General 3 LINDA L. SUN Deputy Attorney General State Bar No. 207108 4 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 897-6375 Facsimile: (213) 897-2804 6 Attorneys for Complainant 7 BEFORE THE BOARD OF REGISTERED NURSING 8 DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 9 10 Case No. 2010 - 240 In the Matter of the Accusation Against: 11 VALERIE REGINA BUGNON AKA 12 VALERIE REGINA MAGARITY ACCUSATION 4600 Via Marina, Apt. 206 13 Marina Del Rey, CA 90292 14 Registered Nurse License No. 592121 15 Respondent. 16 17 Complainant alleges: **PARTIES** 18 Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her 19 1. official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board), 20 Department of Consumer Affairs. 21 On or about December 11, 2001, the Board of Registered Nursing issued Registered 22 Nurse License Number 592121 to Valerie Regina Bugnon aka Valerie Regina Magarity 23 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to 24 the charges brought herein and will expire on May 31, 2011, unless renewed. 25 26 /// 27 /// 28 /// 1

Accusation

#### **JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

#### STATUTORY PROVISIONS

- 4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
  - 6. Code section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."
  - 7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

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8. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

9. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

- "(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.
- "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.
- "(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.
- "(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.
- "(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.
- "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

**COST RECOVERY PROVISION** 

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### DRUG DEFINITION

11. Heparin Flush IV is an anticoagulant used to keep intravenous (IV) catheters open and flowing freely. Heparin helps to keep blood flowing smoothly and from clotting in the catheter by making an anti-clotting protein in the body work better.

## **SUMMARY OF FACTS**

12. Since about January 2002, Respondent was employed as a registered nurse at Cedars-Sinai Medical Center (CSMC), Los Angeles. From 2006, Respondent was working as a per diem nurse in the Pediatrics Unit (4NE) at CSMC. On or about November 18, 2007, while working the day shift (7 a.m. to 7 p.m.), Respondent was assigned to twins, Patient #1 and Patient #2, who were housed in the same room. Patient #1 was a 9-day old female infant admitted to 4NE on November 17, 2007 with a rash. Physician's order was for Acyclovir every 8 hours IV, and Vancomycin every 8 hours IV. Patient #2 was a 9-day old male infant admitted to 4NE on November 17, 2007 with a rash. Physician's order was for Acyclovir every 8 hours IV, and Vancomycin every 8 hours IV. Per hosptial protocol, Heparin Flush 10 units per milliliter is to be administered after the administration of IV medications.

#### Patient #1

- 13. At about 1430 hours, Respondent administered Acyclovir to Patient #1. Respondent did not document on the Medication Administration Record (MAR) the administration of this medication.
- 14. At about 1530 hours, Respondent administered a normal saline flush to Patient #1, after the completion of Acyclovir. Respondent did not document this intervention on any of Patient #1's medical records.

## Patient #2

- 15. At about 1000 hours, Respondent charted "Acyclovir infused, IV flushed with NS only."
- 16. At about 1500 hours, Respondent noticed a small drop of blood on Patient #2's IV site dressing. Respondent removed the dressing, flushed the line with normal saline, and reapplied an IV site dressing. Respondent did not document this intervention on any of Patient #2's medical records.

## FIRST CAUSE FOR DISCIPLINE

## (Gross Negligence)

- 17. Respondent is subject to discipline under Code section 2761, subdivision (a)(1) on the grounds of unprofessional conduct as defined under California Code of Regulations, title 16, section 1442, in that on or about November 18, 2007, while on duty as a per diem nurse at 4NE at CSMC, Respondent was grossly negligent in the following respects:
  - a. Patient #1. At about 1430 hours, after she administered Acyclovir to Patient #1,
    Respondent failed to document the administration of Acyclovir on Patient #1's MAR.
    Complainant refers to and incorporates all the allegations contained in paragraphs 12 15, as though set forth fully.
  - b. Patient #1. At about 1530 hours, Respondent flushed Patient #1's IV line with normal saline after the administration of Acyclovir, when hospital policy mandates the use of 10 units of Heparin flush. Complainant refers to and incorporates all the allegations contained in paragraphs 12 15, as though set forth fully.
  - c. Patient #2. At about 1000 hours and 1500 hours, Respondent flushed Patient #2's IV line with normal saline after the administration of Acyclovir, when hospital policy mandates the use of 10 units of Heparin flush. Complainant refers to and incorporates all the allegations contained in paragraphs 12 15, as though set forth fully.

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#### SECOND CAUSE FOR DISCIPLINE

## (Incompetence)

- 18. Respondent is subject to discipline under Code section 2761, subdivision (a)(1) on the grounds of unprofessional conduct as defined under California Code of Regulations, title 16, sections 1443 and 1443.5, in that on or about November 18, 2007, while on duty as a per diem nurse at 4NE at CSMC, Respondent was incompetent in the following respects:
  - a. Patient #1. Respondent failed to document the administration of normal saline flush after the completion of Acyclovir at about 1530 hours. Complainant refers to and incorporates all the allegations contained in paragraphs 12 15, as though set forth fully.
  - b. Patient #2. Respondent failed to document that at about 1500 hours, she noticed blood on Patient #2's IV dressing, that she removed the dressing, and flushed the IV line with normal saline and reapplied the dressing. Complainant refers to and incorporates all the allegations contained in paragraphs 12 15, as though set forth fully.

# **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 592121, issued to Valerie Regina Bugnon aka Valerie Regina Magarity;
- 2. Ordering Valerie Regina Bugnon aka Valerie Regina Magarity to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: 11/10/09

LOUISE R. BAILEY, M.ED., RIV Interim Executive Officer

Board of Registered Nursing Department of Consumer Affairs

State of California Complainant

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